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JUN 15 1998

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re

Amendment of Section 73.202(b))	
Table of Assignments)	MM Docket No. 98-53
FM Broadcast Stations)	RM-9253
(Malvern and Bryant,)	
Arkansas))	

To: Chief, Allocations Branch

COMMENTS IN SUPPORT OF RULEMAKING

Malvern Entertainment Corporation, licensee of FM station KBOK-FM, Malvern, Arkansas (hereinafter "KBOK-FM"), by its attorney, respectfully submits these comments with respect to the Commission's Notice of Proposed Rule Making, DA 98-692, released April 24, 1998. KBOK-FM, the initiator of this proceeding, hereby incorporates by reference the showings made in its petition for rule making. It restates its commitment to apply for Channel 227A at Bryant upon the effectiveness of the amendment to the Commission's Table of Allotments and, when authorized, to construct the new station promptly.

Attachment A hereto is an engineering showing prepared by KBOK's consultant. Page A-1 is a map showing the proposed service areas (60 dBu contours) of KBOK as it currently exists, and as it would be from its proposed referenced site. As is evident, the proposed move would greatly increase KBOK's coverage area.

Page A-2 demonstrates why such an increase would occur. From its current site, KBOK has only a 23.6 meter HAAT, while it believes it could achieve a full 100 meter HAAT from its proposed

site. Its contour calculations assumes full Class A facilities from its proposed site.

At present, KBOK serves 910.6 sq. km, with a population of 23,552, according to the 1990 Census. As a Bryant station, KBOK will serve an area of 2512.3 sq. km, and a population of 114,572. This represents an increase of 1601.7 sq. km in area and 91,020 in population. Of its present coverage area, KBOK will continue to serve 432.4 sq. km, with the remaining 478.2 sq. km losing KBOK's primary coverage.

However, the entire loss area is well-served, as shown by page A-3. Seventeen other stations are identified as providing a reception service within the area which would lose KBOK's service as a result of its move to Bryant. Clearly, the proposed move would not create any underserved area.¹

The NPRM requested additional information on whether Bryant merits a first local service preference, in view of the fact that a very small number of its residents (926 out of a total population of 5,269) lie within the Little Rock-North Little Rock urbanized area. The factors which the Commission uses to determine whether Bryant is an independent community, or is merely a part of the larger Urbanized Area, are named in RKO General, Inc., 5 FCC Rcd 3222 (1990), and Faye and Richard Tuck, 3 FCC Rcd 5374 (1988). Note 6 to the NPRM identifies these factors as: (1) Signal

¹ Similarly, the proposed gain area is also well-served. Therefore, even though no underserved area is involved, KBOK's proposal will serve the public interest by providing a new service to over 90,000 people.

population coverage; (2) Size and proximity of the suburban community relative to the adjacent city; and (3) The interdependence of the suburban community with the central city.

The first factor, signal population and coverage, favors Bryant as an independent community. As the NPRM recites, only 926 residents, comprising 17.6% of Bryant's 1990 population, reside in the urbanized area. A full 82.4% of Bryant's residents reside outside the urbanized area. Moreover, KBOK-FM would provide a city-grade service to less than 1% of the urbanized area, a de minimis amount.

The second criterion, size and proximity of the two communities, also favors Bryant as an independent community. Bryant is about 20 miles from Little Rock, and the communities of Alexander and Shannon Hills (1990 population 1,755), lie between the two cities. Bryant is in Saline County, while Little Rock is in Pulaski County. Although Little Rock's population is significantly greater than is Bryant's, (175,795 according to the 1990 Census for Little Rock compared to Bryant's 5,269), the significance of this difference is reduced as a result of the distance between the communities.

Since the 1990 Census, Bryant has grown considerably. The Bureau of the Census estimates a January 1997 population of 7,885, which represents a 49.6% increase from 1990. See Attachment A. The City of Bryant estimates a current population of approximately 9,000 residents, growing to 10,000 by the end of this year.

In contrast, the Census estimates show only a 2% gain between

1990 and 1997 for Little Rock, and a minuscule 0.3% increase for North Little Rock during that period.

In RKO General, supra, the Commission enumerated eight considerations which contribute to determining the degree of interdependence of the suburban community with the central city. The Commission went on to state that these were not necessarily comprehensive, and that it would consider other relevant information as well. Each of the Commission's areas is addressed separately.

(1) The extent to which community residents work in the larger metropolitan area, rather than the specified community;

According to information provided by the mayor of Bryant, approximately 45% of Bryant residents who work are employed in the Little Rock metropolitan area. Thus, 55% of the employed residents work outside the metropolitan Little Rock area.

(2) Whether the smaller community has its own newspaper or other media that covers the community's local needs and interests;

Bryant has its own weekly newspaper, the Bryant Times, which covers local news and events. No other paper has an office in Bryant. There are no other media based in Bryant, or which cover Bryant on a regular basis. Bryant needs its own daily source of news and information.

(3) Whether the community leaders and residents perceive the specified community as being an integral part of, or separate from, the larger metropolitan area;

Attachment B hereto consists of letters from community leaders

who support Bryant obtaining its own radio station, and discussing how such a station would serve the needs of the community. Bryant's mayor, the president of the Bryant Chamber of Commerce, and the athletic director of the Bryant public schools all speak to Bryant's own needs, which are clearly distinct from those of Little Rock.

(4) Whether the specified community has its own local government and elected officials:

Bryant has its own local government, with a mayor, city council, city clerk, and about 65 city employees. It has its own wastewater plant, along with its own street, fire, police and parks department. Although water is purchased from the city of Little Rock, Bryant services its own 3352 water meters. Between 60 and 65 people are employed by the city of Bryant.

(5) Whether the smaller community has its own telephone book provided by the local telephone company or zip code;

Southwestern Bell publishes a telephone book for Bryant which includes Benton and smaller surrounding communities. A copy of the telephone book cover is attached hereto. Little Rock listings appear in a separate directory; it is a toll call to dial Little Rock from Bryant.

As mentioned in the petition for rule making, Bryant has its own post office and Zip Code - 72022.

(6) Whether the community has its own commercial establishments, health facilities, and transportation systems;

As described in the petition for rulemaking, Bryant has a

number of commercial establishments and businesses. Since the filing of that petition additional businesses have started in Bryant. They include a new bank, the Union Bank of Bryant; Brett Morgan Chevrolet, a car dealership; a Chinese restaurant, a gasoline station, a new dental office, and an environmental group. Although there is no public transportation in Bryant, that is not unusual for a town its size.

(7) The extent to which the specified community and the central city are part of the same advertising market;

As noted above, Bryant businesses have only a weekly newspaper in which to advertise locally. Those who desire to purchase radio advertising are forced to seek out either the 250 Watt daytime AM station licensed to Benton, or to purchase time on a Little Rock station. The latter is truly impractical, and not cost effective, for a business seeking Bryant customers to advertise on 100 kiloWatt Little Rock stations, whose coverage extends to much of the state, when it is trying to reach local consumers. The growing Bryant business community needs its own local radio station.

(8) The extent to which the specified community relies on the larger metropolitan area for various municipal services such as police, fire protection, schools, and libraries.

Bryant does not rely on Little Rock for municipal services. It has its own schools, police and fire protection.

There is a branch of the Saline County Library at 107 Mills Park Road in Bryant. A new library is planned. The headquarters of the Saline County Library are in Benton. This is a completely

separate library system from the Little Rock library.

Bryant's representation in the Arkansas legislature is separate from that of Little Rock. Bryant lies within District 46 of the Arkansas House of Representative, while Little Rock includes Districts 51-65. Similarly, in the Arkansas State Senate, Bryant is in District 14, while Little Rock includes Districts 16 and 17. Also, Bryant has a different State Prosecuting Attorney and Circuit Court than does Little Rock; Bryant is in District 7, while Little Rock is in District 6.

It is clear from the above that Bryant is an independent community with its own unmet needs and interests. Nearly all the Commission's areas of concern demonstrate that Bryant is not merely an appendage of Little Rock, but is its own community. Bryant is growing rapidly and has its own needs which may be addressed by a local radio station. Bryant's citizens deserve a local radio outlet.²

In Canovanas, Puerto Rico, et al., 11 FCC Rcd 16392 (1996), affirmed, 12 FCC Rcd 10055 (1997), the Commission determined that Las Piedras was worthy of its own station despite being part of the Humacao Urbanized Area. It noted that the Las Piedras Station will be a Class A FM facility, which yields the smallest coverage permitted under the rules. That the station would cover all of the Humacao Urbanized Area was not a bar to finding that the station would truly serve Las Piedras. It found

² In comparison, Malvern, which has two other radio stations, has had little growth over the past 30 years.

Las Piedras, with a 1990 population of 2,087 persons, is an independent community within the Las Piedras municipio with its own local government which provides its residents with municipal services, its own businesses, health facilities, transportation systems, telephone book section and zip code.

The Commission further noted that it is a long distance phone call from Las Piedras to Humacao. The Commission found that the recited attributes of Las Piedras "clearly support a determination that Las Piedras is independent of Humacao."³

Bryant has the same, or even more, attributes of independence than does Las Piedras. Bryant's 1990 population is more than double that of Las Piedras, and Bryant has grown considerably since the Census. Bryant is self-governing, and provides its residents with municipal services. Bryant has its own businesses, health facilities, telephone book section separate from the Little Rock telephone book, and its own Zip Code. As is the case with Las Piedras and Humacao, Little Rock is a long distance telephone call from Bryant.

The facts presented herein convincingly demonstrate that Bryant is a separate and independent community, meriting its own local transmission service. The Commission will further the goals of Section 307(b) of the Communications Act by implementing KBOK-FM's proposal and provide the independent community of Bryant with its first local transmission outlet.

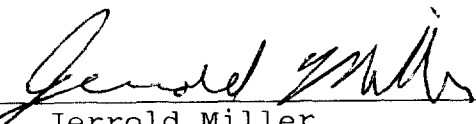
Accordingly, the Commission should amend Section 73.202(b) by allotting Channel 227A to Bryant, Arkansas, in lieu of the present

³ The Commission reached its conclusion despite addressing only a few of the eight RKO General, supra, considerations.

allotment of Channel 227A at Malvern, Arkansas, and modifying
KBOK's license accordingly.

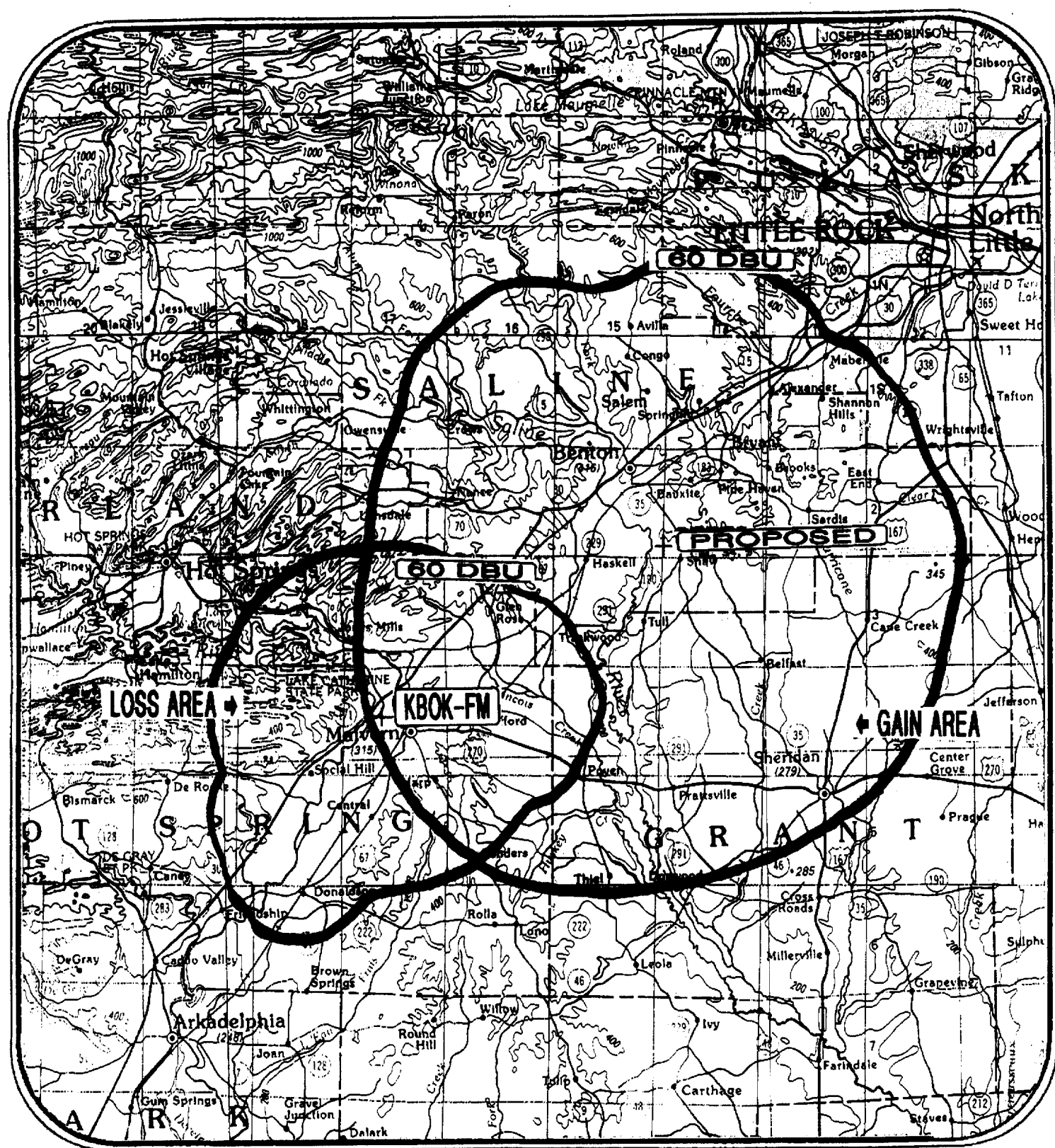
Respectfully Submitted,

MALVERN ENTERTAINMENT CORPORATION

By 
Jerrold Miller
Its Attorney

June 15, 1998

Miller & Miller, P.C.
P.O. Box 33003
Washington, DC 20033

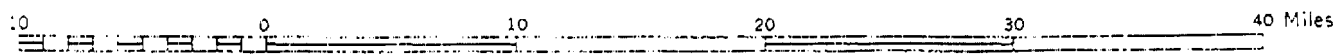


STATE OF ARKANSAS

1990

Scale 1:500 000

1 inch on the map represents approximately 8 miles on the ground



KBOK-FM PROPOSED CHANGE OF CITY OF LICENSE

POPULATION AND AREA SERVED DATA:

KBOK, Malvern, Arkansas license 60 dbu contour:

Population: 23,552
Area : 910.6 sq. km.

KBOK proposed to Bryant, Arkansas 60 dBu contour:

Population: 114,572
Area : 2512.3 sq. km.

60 dBu Area LOSS as a result of proposed change: 478.2 sq. km.
60 dBu Area GAIN as a result of proposed change: 2080.9 sq. km.
60 dBu Area unchanged as a result of proposed change: 432.4 sq. km

REFERENCE SITE PROPOSED KBOK @ BRYANT, ARKANSAS

Predicted Signal Contours:

34 30 30 - CHANNEL 227A, BRYANT, AR.
92 32 42 -

ERP = 6 kW, 7.782 dBk			FM - 2-6 Tables		70 dBu.5	60 dBu.5
Radial	HAAT	kW	dBk	Field		
0 Degr.	77.4M	6.000	7.782	1.000	14.0	25.1
45 Degr.	76.7M	6.000	7.782	1.000	14.0	25.0
90 Degr.	94.6M	6.000	7.782	1.000	15.6	27.6
135 Degr.	109.4M	6.000	7.782	1.000	17.0	29.5
180 Degr.	115.8M	6.000	7.782	1.000	17.6	30.3
225 Degr.	136.1M	6.000	7.782	1.000	19.1	32.5
270 Degr.	93.3M	6.000	7.782	1.000	15.5	27.4
315 Degr.	98.7M	6.000	7.782	1.000	16.0	28.1

Ave. HAAT= 100.3M, Ant. COR= 201.0M AMSL

KBOK-FM LICENSED SITE:

Predicted Signal Contours:

34 22 25 -
92 49 52 -

ERP = 5.8 kW, 7.634 dBk			FM - 2-6 Tables		60 dBu.5
Radial	HAAT	kW	dBk	Field	
0 Degr.	-5.1M	5.800	7.634	1.000	15.6
45 Degr.	34.5M	5.800	7.634	1.000	16.7
90 Degr.	49.9M	5.800	7.634	1.000	20.4
135 Degr.	26.1M	5.800	7.634	1.000	15.6
180 Degr.	23.4M	5.800	7.634	1.000	15.6
225 Degr.	50.1M	5.800	7.634	1.000	20.4
270 Degr.	-14.9M	5.800	7.634	1.000	15.6
315 Degr.	24.8M	5.800	7.634	1.000	15.6

Ave. HAAT= 23.6M, Ant. COR= 141.0M AMSL

RECEPTION SERVICES AVAILABLE WITHIN KBOK-FM LICENSE 60 DBU LOSS AREA

CALL	CITY OF LICENSE	CHANNEL	POWER	DISTANCE* (KM)
KKPT-FM	LITTLE ROCK, AR	231C	100KW	56.3
KOLL-FM	MAUMELLE, AR	235C	100 KW	56.9
KSSN-FM	LITTLE ROCK, AR.	239C	100 KW	56.6
KLXQ-FM	HOT SPRINGS, AR.	244A	.94 KW	26.7
KQUS-FM	HOT SPRINGS, AR.	248C1	100 KW	26.7
KURB-FM	LITTLE ROCK, AR.	253C	100 KW	56.3
KQAR-FM	JACKSONVILLE, AR.	262C1	44 KW	56.5
KISI-FM	MALVERN, AR.	268A	6.0 KW	4.8
KVLO-FM	SHERIDAN, AR.	275C2	50 KW	42.7
KSYG-FM	LITTLE ROCK, AR.	279C	100 KW	56.3
KMJX-FM	CONWAY, AR.	286C1	81 KW	56.4
KLAZ-FM	HOT SPRINGS, AR.	290C1	95 KW	19.9
KBHS-AM	HOT SPRINGS, AR.	590 KHZ	5.0 KW	19.4
KGHT-AM	SHERIDAN, AR.	880 KHZ	50 KW	41.7
KBOK-AM	MALVERN, AR.	1310 KHZ	1.0 KW	0.0
KZNG-AM	HOT SPRINGS, AR.	1340 KHZ	1.0 KW	22.3
KXOW-AM	HOT SPRINGS, AR.	1420 KHZ	5.0 KW	22.7

*DISTANCES ARE FROM TRANSMITTER SITE TO TRANSMITTER SITE

Listed Stations 1 mv/m (FM) or 5 mv/m (AM) signal

intersects proposed 1 mv/m in LOSS AREA.

ATTACHMENT B

city of Bryant

210 S.W. Third
Phone: 501-847-0292
Fax: 501-847-5332

bryant, arkansas 72022

January 30, 1998

Mr. Scott A. Gray
1402 Hwy 270 West
Malvern, AR 72104

Dear Scott:

It has come to my attention that you have an FM Radio frequency you are not currently using. If you don't have an immediate need for this frequency, it would be very beneficial to our fast growing city of approximately 9,000. Our 1990 census was 5269.

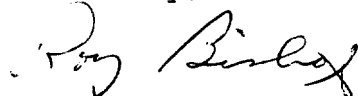
Bryant is a growing city with a progressive government (Mayor-Council). We have a class 5 fire rating with 3 fire stations. Our police force consists of the Chief, 18 officers, 4 radio operators, 3 clerks and 2 reserve officers. Our city has a low crime rate which makes it a safe place to live.

I believe Bryant has need of a full time radio station and this need is not currently being met. With a full time FM station, Bryant could benefit from increased news coverage, school activities, school closings, sports events, etc. All of these things are important to the people of Bryant, which is a close knit city. Bryant schools, with a progressive administration, are also experiencing growth. Many students are involved in sports, band, choir, etc. We have many proud parents in Bryant.

Bryant is an incorporated city, a city with its own character of people. The people consider themselves residents of Bryant and not the surrounding cities or the Metropolitan area.

I look forward to hearing from you soon.

Sincerely,



Roy Bishop
Mayor

RB/ck

city of bryant

210 S.W. Third
Phone: 501-847-0292
Fax: 501-847-5332

May 4, 1998

Malvern Entertainment Corp.
1402 Hwy 270 West
Malvern, AR 72104

Attn: Mr. Scott Gray

Dear Scott:

Thank you for your assistance in acquiring a local radio station for the City of Bryant. As I have previously mentioned, the City of Bryant is a safe, growing and progressive first class city.

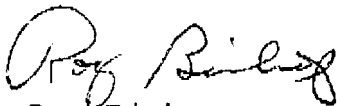
Out of town radio stations do not broadcast our hometown baseball and football games or other sports or community interest items. We have softball and baseball fields for use by the various sports leagues for local and tournament games. With our own station we would be better able to keep our citizens informed of local sports and current events.

Although we purchase our water from the City of Little Rock we service our own 3352 water meters. We have our own wastewater plant, along with our own street, fire, police and parks departments.

We have a number of businesses which include 6 banks, 2 motels, realtors, law offices, a medical clinic along with several doctors, dentists and veterinary offices, car lots, 3 cleaners, grocery stores, several restaurants and 6 or 7 "strip malls", some larger than others, which contain a variety of businesses. The city itself employs between 60 and 65 people. The steady growth of new business helps to create more and more jobs for our citizens.

I hope this letter has helped to answer any questions you may have regarding the need for a local radio station. If you need further information on the City, please let me know.

Sincerely,



Roy Bishop
Mayor

RB/ck

bryant, arkansas

72022

BRYANT Chamber of Commerce

P.O. Box 261 • (109 Roy Lane) • Bryant, AR 72089
(501) 847-4702 • Fax (501) 847-4702

February 13, 1998

Dear Mrs. Janet Gray:

We are very excited at the prospect of the selection of Bryant, Arkansas for radio station 93.3 FM.

Bryant is currently growing at a record pace with new businesses locating here seemingly daily. Our school has a student population of almost 6,000 with hundreds of activities which would be greatly enhanced by the presence of a local radio station.

The religious community is quite active, graciously growing as new people are constantly added to our town.

The local business community is totally involved in creating a safe, nurturing environment for people to serve and be served. Bryant has a wonderful spirit of volunteerism epitomizing the caring attitude projected through schools, churches, business and families.

The Bryant Chamber of Commerce Board of Directors offer our support for locating this radio station in our fine city.

Sincerely,



Rick Lafferty
1998 Chamber President

RL/jt



The Community You're Proud to Call Home

Bryant Public Schools
Tom Farmer, Transportation/Athletic Director
200 Northwest Fourth Street
Bryant, Ar. 72022
(501) 847-5601 phone
(501) 847-5683 fax number

February 13, 1997

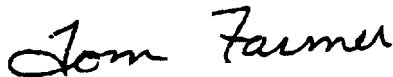
Mrs. Janet Gray,

I understand that you are thinking about moving one of your FM radio stations to Bryant. As the athletic director of the Bryant School District, I find this is very exciting news. There is not another radio station in Bryant for our patrons to identify with. The student athletes and parents enjoy having the games on the air..

I feel that this would be a big boost for the Bryant Athletic Department as well as the many athletics that we have. It will serve the community because we are in an athletic conference that require travel of 2 and half hours. The people of the community are not always able to get to the games. Therefore a Bryant Radio Station would also benefit the community. It would truly benefit the athletic program at Bryant.

We are looking forward in working with you. We are very excited about the athletic games being broadcast live from a Bryant Radio station. We have a set of guys Rob Patrick and Jim LaGrone who are the voice of the hornets. I know this will excite them to know that there will actually be a production.

Sincerely,



Tom Farmer
Bryant Athletic Director